IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

Bail Appl..No. 3717 of 2007()

IN CRIME NO.250 OF 2007 OF VARKALA POLICE STATION

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: PETITIONERS/ACCUSED NOS.3 & 4:

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1. SUDHILAL, AGED 53,
S/O. MADHAVAN, THAKIDIVILA VEEDU, MYTHANAM,
VARKALA, CHIRAYINKEEZHU TALUK.

2. NOUSHAD, AGED 40,
S/O. ABDUL REHMAN, SALMA MANZIL, MYTHANAM,
VARKALA, CHIRAYINKEEZHU TALUK.

BY ADV. SRI.SASTHAMANGALAM S. AJITHKUMAR
SRI.RENJITH B.MARAR

RESPONDENTS:

STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
VARKALA POLICE STATION THROUGH THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 26/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.3717 of 2007

Dated this the 26th day of June, 2007

ORDER

Application for anticipatory bail. Petitioners are accused 3 and 4 and they face allegations under Sections 324 and 452 I.P.C. The crux of the allegations against the petitioners is that on account of animosity arising out of a property dispute between the 1st accused and the defacto complainant, the 1st accused along with mercenaries allegedly attacked the defacto complainant trespassing into the house of the defacto complainant and attacked with dangerous weapons resulting in serious injuries to the victim. Damage was caused to the household articles also. The alleged incident took place on 19.04.2007. Investigation is in progress. The petitioners apprehend imminent arrest. They along with the 2nd accused had applied for anticipatory bail and the learned Sessions Judge had granted anticipatory bail to the 2nd accused only. The petitioners' prayer for anticipatory bail was rejected.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent and are entitled for anticipatory bail. The learned counsel for the petitioners points out that the 2nd accused having been granted anticipatory bail on the ground that there is uncertainity and dissatisfaction about his alleged presence at

the scene of the crime, the petitioners should not have been denied the benefit or advantage arising from that circumstance.

3. The learned Public Prosecutor opposes the application. The allegations are serious. The wound certificate reveals very serious injuries suffered by the victim. In these circumstances, there is no circumstance to justify the prayer for anticipatory bail. Recovery of the weapons will have to be effected. In these circumstances, this application may be dismissed, prays the learned Public Prosecutor .

4. I find merit in the opposition by the learned Public Prosecutor . This, I am satisfied, is a fit case where the petitioner must appear before the learned Magistrate having jurisdiction or the Investigating Officer and then seek bail in the regular and ordinary course.

5. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the learned Magistrate or the Investigating Officer and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously-on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-